

HOUSE No. 748

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty relative to establishing paternity and the collection and enforcement of child support. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO ESTABLISHING PATERNITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 11 of Chapter 209C of the General Laws as appearing
2 in the 2002 Official Edition is hereby amended by inserting at the
3 end there of the following new sections:—

4 (e) The commissioner of revenue in conjunction with the com-
5 missioner of the department of public health shall promulgate reg-
6 ulations for uniform procedures for providing information to the
7 mother and putative father regarding the benefits and responsibili-
8 ties of parentage and the taking of acknowledgments of parentage
9 at hospitals pursuant to section 3C of chapter 46 and this chapter,
10 at the clerk of the city or town’s office or by other agencies or
11 departments and the IV-D agency employees pursuant to
12 sections 2, 5B and 11 of this chapter.

13 (f) Before a written voluntary acknowledgment of parentage is
14 executed by the putative father and the mother of a child, genetic
15 marker testing shall be performed to determine whether the puta-
16 tive father is the child’s father and the results of said testing shall
17 have been made available to the parties unless the mother and
18 putative father have executed a voluntary acknowledgment of
19 parentage with a notarized waiver of genetic marker testing which
20 indicates that:

21 (1) the party was offered genetic marker testing and declined to
22 have genetic testing performed before signing an acknowledgment
23 of parentage;

24 (2) the party understands that an acknowledgment of parentage
25 is the same as a court judgment adjudicating paternity; and

26 (3) the party understands that a man who has been adjudicated
27 the father of a child will be responsible for the child's support
28 until the child's emancipation unless he seeks relief from judg-
29 ment or rescinds the acknowledgment as set forth in preceding
30 paragraphs.

31 (g) Acknowledgment of parentage forms shall be promulgated
32 by the commissioner of revenue in conjunction with the commis-
33 sioner of the department of public health with additional informa-
34 tion to be provided to the parties of the legal rights and
35 responsibilities created by an acknowledgment of parentage,
36 which shall include, but not be limited to the following:

37 (1) the availability of genetic marker testing which can be per-
38 formed before signing an acknowledgment of parentage form;

39 (2) the opportunity to seek advice from an attorney (at the par-
40 ty's own expense) before signing the acknowledgment of
41 parentage even if the party or child receives public assistance;

42 (3) the benefits of genetic marker testing in promoting a child's
43 best interests;

44 (4) statements explaining that an acknowledgment of parentage
45 creates a permanent father and child relationship even if the
46 acknowledgment is made out of court, it is the same as a final
47 court judgment declaring the man the father of a child;

48 (5) statements explaining the consequences of making an
49 acknowledgment of parentage and how to rescind an acknowledg-
50 ment as well as set aside a judgment of parentage; or

51 (6) statements indicating how to obtain genetic marker testing
52 through the IV-D agency and the costs of such genetic marker
53 testing.

54 (h) If the mother and/or putative father is a minor child under
55 the age of eighteen; he or she may voluntarily acknowledge
56 parentage but only if:

57 (1) genetic marker testing has been performed and the results of
58 such testing indicate a probability of paternity over 95% for the
59 putative father; or

60 (2) the acknowledgment is executed in a proceeding under this
61 chapter where the minor is either represented by counsel or the
62 court after a hearing determines that: (a) the minor father and/or

63 minor mother was provided the opportunity to submit to genetic
64 marker testing through the IV-D agency; and (b) the minor(s) file
65 a written notarized waiver of such testing in the case; and (c) the
66 minor or minor(s) were informed that the acknowledgment of
67 parentage can only be challenged on the basis of duress, fraud, or
68 mistake within a year after it is appropriate when an acknowledg-
69 ment signed by a minor parent is filed with the court.

70 (i) Nothing in this section shall affect the validity of an
71 acknowledgment signed before the effective date of sections 11e-1
72 of chapter 209C.